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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/530,237

04/11/2005

Stephane Leonard

13332-00001-US

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01/21/2009

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

01/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/530,237 | Applicant(s) LEONARD ET AL. | |
| | Examiner /Stephen J. Castellano/ | Art Unit 3781 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election of claims 1-9 in the reply filed on October 2, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 10 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 2, 2008.

Claim 9 has been canceled. Claims 1-8 and 10-14 are pending. Claims 1-8 and 11-14 will be treated according to their merits.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 states that it is the combination of a flange and a hollow body. Claim 5 depends from claim 1. Claim 5 contradicts claim 1 which states that the flange is intended for mounting accessories on a hollow body. The metes and bounds of claim 5 can't be determined because it can't be determined if claim 5 is directed to the flange alone or is directed to the hollow body (fuel tank) and the flange. Claim 13 is similarly indefinite.

Claim 6 is indefinite because its preamble doesn't match the preamble of claim 5 from which it depends. Claims 7-8, 11-12 and 14 are similarly indefinite.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 8 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleppner in view of Stangier.

Re claim 1, Kleppner discloses a fuel tank (hollow body) for motor vehicles with a plastic flange with a pipette (accessory) mounted for a fuel return line. Kleppner discloses the invention except for the thread on the periphery of the flange. Stangier teaches a flange for a hollow body made of two parts: (1) holding cover 316 and (2) male screw thread ring 358. It would have been obvious to add a thread to Kleppner to provide a tight fitting closure by making the plastic flange of Kleppner a two part assembly with cover and threaded ring to seal the opening in the fuel tank (hollow body).

Re claim 2, ring (union nut 356) of Stangier is capable for holding the flange in place with the hollow body. It would have been obvious to add this ring to seal the opening in a liquid tight manner.

Re claims 5, 11 and 13, the combination of a hollow body (fuel tank) and flange is disclosed by Kleppner.

Re claims 12 and 14, Stangier also teaches the compressible seal 334 and the ring (union nut 356) is mounted to the hollow body wall indirectly through its connection to flange through the threaded engagement with threaded ring 358 of the flange. It would have been obvious to add the seal to make the joint fluid tight to prevent the escape of liquid fuel or vapors.

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Claims 2, 5-6, 8 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stangier in view of Kleppner.

Stangier discloses the invention except for the plastic material of the flange. Kleppner teaches a flange of plastic material. It would have been obvious to modify the material of the flange to be plastic in order to manufacture the flange more easily by molding, to provide a lighter weight, less expensive material and to provide a part with the other advantages of plastic like easily cleanable, more durable, more resilient, more crack resistant, etc.

Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleppner in view of Stangier as applied to claims 1 and 5 above, and further in view of Straetz.

Re claims 3 and 4, the combination discloses the invention except for the plastic material of low permeability to gases and liquids and one of the specific plastics mentioned in claim 4. Straetz teaches a low permeability plastic for a barrier made of polyamide. It would have been obvious to modify the composition of the plastic to be polyamide in order to provide a fuel barrier to effectively eliminate permeability of gases and liquid fuel.

Re claim 7, the combination discloses the invention except for the two shells of the fuel tank, the multilayered construction of the shells and the welding of the shells. Straetz teaches the two shells of the fuel tank, the multilayered construction of the shells and the welding of the shells. It would have been obvious to modify the construction of the tank to be two multilayered shells welded to each other to provide easier molding of identical or similar shaped halves because the profile of the half shell is approximately $\frac{1}{2}$ the height of the tank and the interior of the shell is accessible and capable of being modified before final assembly over a closed or blow molded design and the welding can be preformed to insure a fuel tight, leak proof seam.

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Applicant's arguments filed October 2, 2008 have been fully considered but they are not persuasive. Re claim 1 and the Kleppner in view of Stangier rejection, the statement of rejection has been changed to explicitly state that the flange is modified to become two parts a cover and a ring with a thread. Applicant should appropriately respond to this modification in the next response.

A new rejection has been made for claims 2, 5-6, 8 and 11-14 as the modification of these claims necessitated a new ground of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc